

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JAMES D. KONCAK and	§
JUDI K. KONCAK,	§
	§
Plaintiffs,	§
v.	§ Civil Action No. <b>3:16-CV-1507-L</b>
	§
<b>DEUTSCHE BANK NATION TRUST</b>	§
<b>COMPANY, as Trustee for GSAMP</b>	§
<i>Trust 2006-FM2, Mortgage Pass-Through</i>	§
<i>Certificates, Series 2006-FM2 and</i>	§
<b>OCWEN LOAN SERVICING, LLC,</b>	§
	§
Defendants.	§

**ORDER**

Before the court is Plaintiffs' Motion for Extension of Time to File Plaintiffs' Notice of Appeal Pursuant to Federal Rule 4(a)(5) (Doc. 26), filed March 16, 2017. On March 22, 2017, Defendants filed a response in opposition to the motion (Doc. 27). On May 24, 2017, United States Magistrate Judge Renée Harris Toliver entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report"), recommending that the court grant Plaintiffs' motion. No objections to the Report were filed within the time allowed.

Having reviewed the motion, response, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. The court, therefore, **grants** Plaintiffs' Motion for Extension of Time to File Plaintiffs' Notice of Appeal Pursuant to Federal Rule 4(a)(5) (Doc. 26). Before the court could rule on Plaintiffs' motion and the Report, Plaintiffs filed a Notice of Appeal on June 6, 2017, after the magistrate judge recommended that their motion be granted. Accordingly, in light of the court's ruling on Plaintiffs' motion, it

**extends** Plaintiffs' deadline to appeal under Fed. R. App. 4(b)(5) to June 6, 2017, such that their Notice of Appeal filed June 6, 2017, is **deemed timely**.

Notwithstanding the court's decision to grant the requested extension, it prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **incorporates** by reference the magistrate judge's prior Report (Doc. 21) and this court's order (Doc. 24). *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). For the reasons set forth in the magistrate judge's prior Report (Doc. 21) and this court's order (Doc. 24), the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**It is so ordered** this 9th day of June, 2017.



Sam A. Lindsay  
United States District Judge